

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

Case No. 5:20-MJ- 636 (ATB)

GREGORY GAUTHIER,)

Defendant)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 2017 in the county of Oneida in the Northern District of New York the defendant violated:

Code Section

18 U.S.C. § 2252A(a)(2)(A); 18
U.S.C. § 2252A(a)(5)(B)

Offense Description

Receipt and Distribution of Child Pornography; and Possession of
Child Pornography

This criminal complaint is based on these facts:
See Attached Affidavit

☒ Continued on the attached sheet.


Complainant's signature

David N. Frehulfer, Special Agent

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: 12/8/2020


Judge's signature

City and State: Syracuse, New York

Hon. Andrew T. Baxter, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, David N. Frehulfer, being duly sworn, depose and state:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed by the FBI since September 2016. I am currently assigned to the Albany Division, Albany, New York. I have participated in multiple investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections 2251, 2252 and 2252A. I have received training in the area of child sexual exploitation and have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media. I have also received training regarding the use of computer technology to conduct criminal activity, to include online file-sharing services and peer-to-peer networks.

2. This affidavit is made in support of an application for a criminal complaint charging Gregory Gauthier with violations of Title 18, United States Code, Sections 2252A(a)(2)(A), and 2252A(a)(5)(B) (distributing, receiving and possessing child pornography).

3. The statements in this affidavit are based in part on information provided by Oneida County Sheriff's Office Investigator C.J. Paravati, FBI Special Agent Heather Weber and on my investigation of this matter.

4. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that Gauthier has committed violations of Title 18, United States Code, Sections 2252A(a)(2)(A), and 2252A(a)(5)(B), as outlined above.

PROBABLE CAUSE

5. On September 25, 2017, the Oneida County Child Advocacy Center received a walk-in complaint about a 9 year-old girl being sexually abused on September 16, 2017, by Gregory Gauthier. The victim was interviewed by an Oneida County Sheriff's Office Investigator on September 27, 2017 and stated that while she and her mother were visiting his house Gauthier rubbed her breasts and vagina, digitally penetrated her and forced her to perform oral sex on him. The victim further stated that when Gauthier finished sexually assaulting her, he told her to go into his bathroom and take pictures of herself naked with his cellular telephone.

6. Gauthier was a level 2 New York State Registered Sex Offender. He was convicted May 1, 2014 of Promoting a Sexual Performance by a Child less than 17 years of age and Possessing a Sexual Performance by a Child less than 16 years old. As a result of these convictions, he was on parole and prohibited from having any unsupervised contact with anyone under the age of 18 and possessing a computer or cellular telephone that can access the internet.

7. The victim's Mother was also interviewed on September 27, 2017 and confirmed that Gauthier had been alone with her daughter on September 16, 2017, and that her daughter had complained about being sexually assaulted by him. She also stated that Gauthier possessed a smart phone that he hid from his parole officer at his apartment and used to view child pornography. According to the victim's mother, she has seen child pornography on that smart phone.

8. On September 27, 2017, an Oneida County Judge issued a search warrant authorizing law enforcement officials to search Gauthier, his apartment and his cellular telephone for images and videos depicting child pornography. On that same date the search warrant was

executed and a black LG ZTE Citrine Model Z717VL internet capable cellular telephone was recovered from Gauthier's apartment.

9. Gauthier was interviewed by a law enforcement official on September 27, 2017, and in a sworn written statement admitted to sexually assaulting the 9 year old victim mentioned above. Gauthier also admitted that he owned an internet capable cellular telephone that he uses to download and share child pornography. In addition, Gauthier informed law enforcement officials that he uses an e-mail address of alexisf1407@gmail.com.

10. Gauthier was arrested on September 27, 2017 and charged with Criminal Sexual Act in the First Degree, Predatory Sexual Assault against a Child, in violation of New York Penal Law Section 130.50 subdivision 3, a Class B felony. Gauthier pled guilty and in 2018 received a sentence of 18 years to life in prison.

11. A forensic review of Gauthier's LG ZTE Citrine Model Z717VL cellular telephone revealed 71 images and 98 videos depicting child pornography. A brief description of some of those is as follows:

a. File name: 098a9daacc552bfa0e4081f47a5980 – This video is approximately 1 minute in length and was accessed on the phone on 09/24/2017. The video depicts a naked pre-pubescent female that appears to be approximately 6 years of age. The child is sitting naked between the legs of a naked adult male with his erect penis exposed. The naked child places the naked adult male penis on her face and utilizes both her hands to rub the naked male's penis. The video also shows the child's vagina, as well as her naked chest.

b. File name: 66f23327845d4936db252ac3b574f098b6b2e7b4 – This video is approximately 48 seconds in length and was accessed on the phone on 09/24/2017. The video

depicts a naked pre-pubescent female with stockings on both her legs that appears to be approximately 6 years of age. The child is sitting naked in a chair with her legs spread apart exposing her naked vagina. There is a naked adult male standing next to her with his naked erect penis exposed. She is performing oral sex on the erect penis of the male. The video focuses on the naked child's mouth and the naked adult male ejaculates in the naked child's mouth.

c. File name: 6e4a55cb-9944-43b7-a9c7-d0e8e31e6720.mp4. This video is approximately 1 minute 59 seconds in length and was accessed on the phone on 09/10/2017. The video depicts a naked female infant. The naked infant is sitting on a bed and is in visible distress as a naked adult female wearing a mask on her face to conceal her identity is lying next to the infant with her legs spread around the infant. The naked adult female then places the infant's hand into her naked adult vagina. The naked adult female then lays the naked infant on her back and spreads the infant's legs exposing her vagina and touches the infant's vagina with her fingers. The adult female also slaps the infant's vagina and bottom. The video ends with the naked adult female utilizing a pink towel to wipe the tears from the infant's face.

d. File name: df38b4fe-720c-4ab4-8173-9db90e8820cc.mp4— This video is approximately 1 minute 58 seconds in length and depicts an 8-9 year old pre-pubescent girl being vaginally penetrated by an adult male penis.

12. Forensic analysis of Gauthier's LG ZTE Citrine Model Z717VL cellular telephone also revealed that Gauthier uses a Google account alexisf1407@gmail.com. In addition, forensic analysis showed that a KIK account associated with alexisf1407@gmail.com was used to distribute and receive images of child pornography. Below are examples of GAUTHIER sending

and receiving videos depicting child pornography using his KIK account that were found on GAUTHIER's ZTE cellular telephone:

a. File Name: 8e18c469b26d-47f3-b162-45c89f1cc7db.mp4— This video is approximately 1 minute, 30 seconds long and depicts an adult male receiving oral sex from fully-clothed girl, approximately 5-8 years of age. Gauthier, using the KIK username "Alexisf1407", sent this video to an unknown KIK user with username, "annaannaoz", on September 13, 2017 at 12:08am Universal Coordinated Time (UTC).

b. File Name: df38b4fe-720c-4ab4-8173-9db90e8820cc.mp4— This video is approximately 1 minute, 58 seconds long and depicts an adult male using his penis to vaginally penetrate an approximately 8-10 year old female. The female is completely naked and her entire body and face are visible. On September 13, 2017, at 12:24am UTC, KIK user, "annaannaoz", sent this video to "Alexisf1407", the account used by Gauthier.

13. Forensic analysis of Gauthier's LG ZTE Citrine Model Z717VL cellular telephone also revealed the following KIK conversation relating to the transmitting of image "8e18c469b26d-47f3-b162-45c89f1cc7db.mp4" and image df38b4fe-720c-4ab4-8173-9db90e8820cc.mp4 described above:

a. KIK Chat: Gauthier's LG ZTE cellular telephone contained three recent KIK chat conversations between his username, "Alexisf1407", and unknown KIK users. The following is a brief excerpt from a KIK conversation stored on Gauthier's phone:

Alexisf1407 (username utilized by Gauthier): "Do u like young vids"

annaannaoz (unknown KIK user): "yeah"

annaannaoz : “Got any?”

Alexisf1407: [attaches image “8e18c469b26d-47f3-b162-45c89f1cc7db.mp4”]

Alexisf1407: “U send one too. I got more.”

Alexisf1407: “Ur turn”

Alexisf1407: “Ok?”

annaannaoz: [attaches image “df38b4fe-720c-4ab4-8173-9db90e8820cc.mp4”]

14. On May 22, 2018, Google Inc. responded to a search warrant issued in the United States District Court for the Northern District of New York and executed on January 4, 2018 for Gmail accounts, alexisf1407@gmail.com and alexisf1402@gmail.com. Folders stored by Gauthier on Google servers associated with these accounts, were found to contain videos and still images depicting child pornography. Below are descriptions of two images contained in Gauthier’s Google account:

a. File Name: c35320e8-7697-44a4-9d19-477d3e695c71.mp4—This video is approximately 25 seconds long and depicts an extreme close-up video of adult male rubbing his penis on the vagina of an approximately 2-3 year old girl. The adult male then repeatedly penetrates the girl’s vagina with his penis.

b. This video is approximately 2 minutes long. A fully clothed girl, approximately 3-5 years old, stands facing an adult male who is fully clothed except for his erect penis and testicles, which are exposed. The girl performs oral sex on the adult male who appears to ejaculate in the girl’s mouth. The girl leans toward the camera and spits out what appears to be the man’s semen.

15. Forensic analysis of Gauthier's LG ZTE Citrine Model Z717VL cellular telephone also revealed that Gauthier used Google account, alexisf1407@gmail.com, to create a Dropbox account. A search warrant issued by the United States District Court for the Northern District of New York on January 4, 2018, was executed on the Dropbox account associated with email address, alexisf1407@gmail.com. Forensic review of the Dropbox account revealed the storage of approximately 285 child pornographic videos and 4 child pornographic still images. The following are examples of images found in Gauthier's Dropbox account:

a. File Name: 1_4931539040483672079.mp4— This video is approximately 11 seconds long and was uploaded to a folder named "CP_Vid" by Gauthier on September 22, 2017. The video depicts a close-up view of an adult male using his penis to penetrate 3-4 year old girl's vagina.

b. File Name: 1_4944977761224622114.mp4— This video is approximately 1 minute and 57 seconds long and was uploaded to a folder named "CP_Vid" by Gauthier on September 22, 2017. This video depicts a close-up view of an adult male using his finger to penetrate the vagina and anus of girl approximately 1-2 years of age. The young girl is seen lying on the floor on her back, fully nude, and all that is visible of the adult male is his forearm, hand, and his foot. At one point during the video, the man pauses and puts what appears to be candy into the girl's mouth before continuing to penetrate her with his finger.

16. Further forensic review of Gauthier's Dropbox account showed that all of the file upload activity was performed by user identification number, 667756092. This is the same number

associated with the subscriber data provided by Dropbox for Gauthier's account registered with email address, alexisf1407@gmail.com, which Gauthier admitted to creating and using.

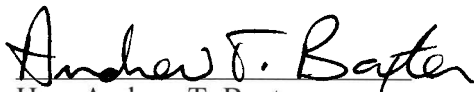
CONCLUSION

17. Based upon the above information, there is probable cause to believe that GAUTHIER has knowingly distributed child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce, in violation of 18 U.S.C. §§ 2252A(a)(2)(A); knowingly received child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce, in violation of 18 U.S.C. §§ 2252A(a)(2)(A); and knowingly possessed and accessed with intent to view child pornography that had been transported using any means of interstate and foreign commerce and in and affecting such commerce, and that was produced using materials which have been so transported, in violation of 18 U.S.C. §§ 2252A(a)(5)(B).

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF RULE 4.1 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.


David N. Frehulfer, Special Agent

I, the Honorable Andrew T. Baxter, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on December 8, 2020, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.


Hon. Andrew T. Baxter
United States Magistrate Judge